

12.90A Annual appropriation bonds.

1. As used in [this section](#), unless the context otherwise requires:

a. “*Annual appropriation bonds*” means bonds, notes, or other evidences of obligations of the state which may be payable during a fiscal year from one or more of the following sources, subject to the limitations contained in [this section](#):

(1) Moneys appropriated by law for the payment of debt service due with respect to the annual appropriation bonds during that fiscal year.

(2) Proceeds of the sale of the annual appropriation bonds.

(3) Payments received under authorizing documents and other agreements and ancillary arrangements entered into with respect to the annual appropriation bonds.

(4) Investment earnings on amounts described in subparagraphs (1) through (3).

b. “*Appropriation*” means an act of appropriation by the general assembly which has become law by approval of the governor or otherwise.

c. “*Authorizing documents*” means a trust indenture, resolution, or other instrument pursuant to which annual appropriation bonds are issued in accordance with the provisions of [this section](#) and setting forth the terms and conditions thereof.

2. The treasurer of state is authorized to issue and sell annual appropriation bonds on behalf of the state to provide funds for certain infrastructure projects and other purposes as provided in [subsection 4](#) and to refund any annual appropriation bonds previously issued, and shall have all powers necessary and convenient to carry out the treasurer of state’s duties, and exercise the treasurer of state’s authority, under [this section](#).

3. Annual appropriation bonds may be issued and sold in one or more series on the terms and conditions the treasurer of state determines to be in the best interest of the state, in accordance with [this section](#) in such amounts as the treasurer of state determines to be necessary to fund the purposes for which such annual appropriation bonds are issued. The treasurer of state may issue annual appropriation bonds in amounts which provide aggregate net proceeds of not more than one hundred five million dollars for purposes of alternative energy projects and for purposes of the vertical infrastructure restricted capitals fund created in [section 8.57D](#).

4. The treasurer of state may issue annual appropriation bonds as the treasurer of state determines necessary or desirable to pay for expenditures for certain infrastructure projects and other purposes as provided in [subsection 3](#), to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor and to provide sufficient funds for the payment of interest on the annual appropriation bonds, the establishment of reserves with respect to the annual appropriation bonds, the payment of costs of issuance of the annual appropriation bonds, the payment of other expenditures of the treasurer of state incident to and necessary or convenient in connection with the issuance of the annual appropriation bonds, and the payment of all other expenditures necessary or convenient to carry out the purposes for which the annual appropriation bonds are issued. The treasurer of state may enter into or obtain authorizing documents and other agreements and ancillary arrangements with respect to annual appropriation bonds as the treasurer of state determines to be in the best interests of the state, including but not limited to trust indentures, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, investment agreements, or interest exchange agreements. Any authorizing document or other agreement or ancillary arrangements by which any moneys are pledged to the payment of annual appropriation bonds shall not be required to be recorded or filed under the uniform commercial code, [chapter 554](#), to be valid, binding, or effective.

5. Annual appropriation bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be subject to such other terms and conditions as prescribed in their authorizing documents.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the treasurer of state. [Chapters 73A, 74, 74A, and 75](#) do not apply to the sale or issuance of the annual appropriation bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with [this section](#) and as determined by their authorizing documents.

d. Securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Proceeds of annual appropriation bonds not required for immediate disbursement may be deposited with the treasurer of state or a trustee, paying agent, escrow agent, or depository as provided in the authorizing documents and may be invested or reinvested in any investment as directed by the treasurer of state and specified in such authorizing documents without regard to any limitation otherwise provided by law.

7. Annual appropriation bonds are payable in any fiscal year solely and only out of the moneys, assets, or revenues appropriated for such purposes by law for that fiscal year, all of which amounts, once appropriated, shall be deposited into the annual appropriation bonds debt service fund and used or transferred as provided in [this section](#) to pay debt service due with respect to annual appropriation bonds during the fiscal year for which such amounts are appropriated. Annual appropriation bonds are not an obligation, indebtedness, or debt of the state, or a charge against the general credit or general fund of the state, and the state shall not be liable for the payment of any amounts due under any annual appropriation bonds except from moneys appropriated by law for the payment thereof as provided under [this section](#). The annual appropriation bonds are not secured by any pledge of the faith and credit or the taxing powers of the state. Annual appropriation bonds shall not directly or indirectly obligate the state to make payments thereon beyond any fiscal year for which sufficient funds have been appropriated by law for such purpose.

8. In the event that funds are not appropriated for any fiscal year in an amount sufficient to make the payments of principal and interest and any other amounts due under the annual appropriation bonds during such fiscal year all of the following shall apply:

a. The state's obligations under the annual appropriation bonds shall terminate and become null and void on the last day of the fiscal year for which funds were appropriated in an amount sufficient to make the payments of principal and interest and any other amounts due under the annual appropriation bonds for such fiscal year.

b. The state shall not be obligated to make payment from any source of any amounts due under the annual appropriation bonds beyond those amounts for which an appropriation has previously been made.

c. The state shall not be liable to the holders of the annual appropriation bonds or any other person for any remaining amounts due under the annual appropriation bonds or for any costs, damages, or expenses incurred by the holders of the annual appropriation bonds or any other person as a result of such failure to appropriate. Annual appropriation bonds, the repayment thereof and any reserve and debt service funds established with respect thereto shall be subject to nonappropriation. Annual appropriation bonds issued under [this section](#) shall contain a conspicuous statement of the limitations established in [this subsection](#).

9. Annual appropriation bonds issued under [this section](#) are declared to be issued for an essential public and governmental purpose and all annual appropriation bonds issued under [this section](#) shall be exempt from taxation by the state of Iowa and the interest on the annual appropriation bonds shall be exempt from the state income tax and the state inheritance tax.

10. In order to better provide for the budgeting and appropriation of sufficient amounts to make the payments due with respect to annual appropriation bonds in any fiscal year and to fund or restore reserve funds established with respect to annual appropriation bonds, if any, the treasurer of state shall, on or before January 1 of each calendar year, make and deliver to the governor and to both houses of the general assembly the treasurer of state's certificate that includes all of the following:

a. A statement of the amount required to make the payments due with respect to annual

appropriation bonds in the next succeeding fiscal year and the amount, if any, required to fund or restore any reserve fund to the reserve fund requirement for that reserve fund.

b. A request that budget and appropriation bills approved for such fiscal year include amounts sufficient to make the payments due with respect to annual appropriation bonds during that fiscal year and to fund or restore any reserve fund to the reserve fund requirement for that reserve fund.

11. If, after amounts have been appropriated for a fiscal year to make payment of principal and interest and any other amounts due with respect to the annual appropriation bonds for such fiscal year and to fund or restore any reserve fund to the reserve fund requirement for that reserve fund, the treasurer of state determines that the amounts appropriated for such purposes are insufficient for any reason, the treasurer of state shall make and deliver to the governor and to both houses of the general assembly the treasurer of state's certificate that includes a statement of the amount of the deficiency and a request for an additional appropriation for such fiscal year to make up such deficiency.

12. Any amounts appropriated by law from the general fund of the state or any other legally available funds to make the payments due with respect to annual appropriation bonds for a fiscal year shall be paid to the treasurer of state on or after the first business day of such fiscal year in as many installments as are needed to accumulate the total amount so appropriated as soon as funds become legally available and such amounts, as received, shall be deposited by the treasurer of state in the annual appropriation bonds debt service fund.

13. Any amounts appropriated by law to fund or restore any reserve fund shall be paid to the treasurer of state as soon as funds become legally available and shall be deposited by the treasurer of state in the applicable reserve fund. For any fiscal year for which amounts have been lawfully appropriated in an amount sufficient to make payment of principal and interest and any other amounts due with respect to annual appropriation bonds for such fiscal year, to the extent that appropriated funds have not become fully available so that amounts deposited into the annual appropriation bonds debt service fund are not sufficient to make such payment when due, any moneys on deposit in a reserve fund established with respect to the annual appropriation bonds may be transferred to the annual appropriation bonds debt service fund and used to make such payments, subject to the provisions of [this section](#).

14. The treasurer of state may from time to time issue annual appropriation bonds for the purpose of refunding any annual appropriation bonds then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding annual appropriation bonds. Until the proceeds of annual appropriation bonds issued for the purpose of refunding outstanding annual appropriation bonds are applied to the purchase or retirement of outstanding annual appropriation bonds or the redemption of outstanding annual appropriation bonds, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of [this section](#), the authorizing documents, and any applicable escrow. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding annual appropriation bonds to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments shall be returned to the general fund of the state. All refunding annual appropriation bonds shall be issued and subject to the provisions of [this section](#) in the same manner and to the same extent as other annual appropriation bonds issued pursuant to [this section](#).

15. a. It is the intent of the general assembly that the general assembly make timely appropriations from moneys in the general fund of the state or any other legally available funds that are sufficient to make payment of principal and interest and any other amounts due with respect to annual appropriation bonds in a fiscal year and to fund or restore any reserve fund established with respect to the annual appropriation bonds to the reserve fund requirement for that reserve fund.

b. [This section](#) does not create and shall not be construed as creating a general, legal, or enforceable obligation of the general assembly to appropriate any moneys for any fiscal year for any of the foregoing purposes and the decision to appropriate such moneys for any fiscal

year shall be at the complete discretion of the then current general assembly and governor who shall have the final responsibility for making such decisions.

16. Neither the treasurer of state nor any person acting on behalf of the treasurer of state, while acting within the scope of their employment or agency, is subject to personal liability resulting from carrying out the powers and duties conferred by [this section](#).

17. Amounts appropriated pursuant to [this section](#) are not subject to a uniform reduction in accordance with [section 8.31](#).

2009 Acts, ch 174, §1, 4

Referred to in [§12.90B](#), [12.90C](#)

The authority of the treasurer of state to issue one or more series of annual appropriation bonds under subsection 3 applies to bonds issued on or after July 1, 2010; 2009 Acts, ch 174, §4